

# Notice of Allowability

Application No.

10/798,917

Examiner

Hai Vo

Applicant(s)

DOVE, KEVIN E.

Art Unit

1771

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 08/03/2006.
2. ☒ The allowed claim(s) is/are 1-18, 20, 21, 23, 24, 26, 27, 53-64 and 66-72.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 20061010.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dianne Burkhard on 10/10/2006.

The application has been amended as follows:

***The claims:***

***Claim 1*** (currently amended) A gasket comprising

at least two laminate tapes each comprising a plurality of porous expanded polytetrafluoroethylene (ePTFE) layers, the laminate tapes comprising upper and lower laminate layers and two side surfaces which extend in ~~the~~ a longitudinal "x" direction of the laminate tapes between upper and lower laminate layers, and

at least one substantially air impermeable layer,

wherein the at least two laminate tapes are ~~aligned side-by-side~~ bonded along the side surfaces ~~and joined~~ by the at least one substantially air impermeable layer which is positioned between two laminate tape side surfaces and extending substantially completely from the upper laminate layer to the lower laminate layer for the length of the laminate tapes.

***Claim 53*** (currently amended) A gasket comprising

at least two tapes each comprising a plurality of porous expanded polytetrafluoroethylene (ePTFE) layers, the tapes comprising upper and lower porous ePTFE layers, and side surfaces extending ~~longitudinally in a longitudinal~~ the "x" direction of the tapes between upper and lower ePTFE layers and

at least one fluoropolymer material,

wherein the at least two tapes are bonded along the tape side surfaces by the at

least one fluoropolymer material which is positioned between the two tape side surfaces and extending substantially completely from the upper porous ePTFE layer to the lower porous ePTFE layer for substantially the entire length of the tapes,  
wherein the upper and lower porous ePTFE layers define upper and lower gasket surfaces, and wherein the gasket is a form-in-place gasket.

**Cancel** claims 22, 25, 28-52, 65, and 73-112.

### ***Terminal Disclaimer***

The terminal disclaimer filed on 08/03/2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of copending application no. 10/823,512 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance: Note that the provisional obviousness-type double patenting rejections have been overcome in view of the terminal disclaimer. Applicant's declaration, Applicant's amendment and Examiner's amendment are sufficient to overcome the 112 claim rejections, art rejections and sufficient to place the instant claims in condition for allowance.

Of the references of record, the most pertinent are WO 01/27501, JP 2004-003617, US 2003/0230859 and JP 2002-243041.

WO'501 fails to teach or fairly suggest a gasket having a recited structure as set forth in the claims. There is no motivation to modify the gasket of WO'501 to arrive at the claimed invention.

JP '617 and US '859 are not prior art because the present invention was completed at a date prior to a publication date of the JP '617 reference and an effective date of US '859 (see exhibit I shown in Applicant's declaration).

JP '041 was not applied in the previous Office Action, but considered pertinent to Applicant's disclosure. Hishano et al (US 2003/0003290) is an equivalent form of JP '041 for convenience. Hishano teaches a sealing tape comprising a plurality of ePTFE films laminated together to form a laminated sheet (figure 9a). The laminated sheet is slit to form a laminated strip with a predetermined width  $t$  and a laminated height  $H$  as shown in figure 9b. The plurality of laminated strips are joined in a direction which is the same as the lamination direction of the ePTFE films to obtain a sealing tape having a laminated height that is at least two or three times greater (figure 10 and paragraphs 62-66). One of skilled in the art would not have been motivated to join the plurality of laminated strips of Hishano in a direction orthogonal to the lamination direction of the ePTFE films because to do so would defeat the objectives of the Hishano invention, namely a gasket tape having a laminated height which is the same as the height of the laminated strips.

Accordingly, since the prior art fails to teach or suggest a gasket as recited by the instant claims, the instant claims are deemed allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (571) 272-1485. The examiner can normally be reached on Monday through Thursday, from 9:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HV

*Hai Vo*  
**HAIVO  
PRIMARY EXAMINER**